

REMARKS

The present amendment is submitted in response to the Office Action dated March 18, 2008, which set a three-month period for response, making this amendment due by June 18, 2008.

Claims 1-27 are pending in this application.

In the Office Action, claims 1, 7, 10, 11, 15, and 17-20 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,944,962 to Tessel et al in view of Hymer. Claims 2-6, 8, 9, 12-14, and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Tessel and Hymer and further in view of Ting.

In the present amendment, claim 1 has been amended to define over the references by adding that *said laser emits a marking beam (110, 219, 352, 364) in an operation mode to reproduce a clear line on a work piece (214, 302) to provide a scribed line*. Support for this language can be found in the specification on page 2, lines 1-5 and in Figs. 1, 5, 6, 7, and 8.

In addition, new claims 21-27 have been added. Support for new claim 21 can be found in Figs. 1 and 5-8 as well as on page 2, lines 1-5. Support for new claim 22 can be found on page 3, lines 27-29 and in Figs. 2 and 7. Support for new claims 23 and 24 can be found in Figs. 2 and 7. Support for new claim 25 can be found on page 3, lines 29-30 and in Figs. 2 and 7. The features of new

claim 26 can be found on page 10, line 25 and in Figs. 7 through 9. Finally, the features of claim 27 are found on page 10, lines 25-27.

Tessel et al. discloses a line-marking device (100) embodied as chalk line (200) with a laser device (125) and a protractor (116, 118), The laser device (125) is used to align the chalk line (200) with a reference mark (145) and therefore to position the marking device (100) (Tassel, Fig. 1, abstract as well as paragraphs 0006, 0010 and 0037).

In contrast, the patent application claims a marking device (100, 200, 300) having a laser (103, 203, 314), *which emits in an operation mode a marking beam (110, 219, 352, 364) to reproduce a clear line on a work piece (214, 302) to provide a scribed line and a fastening element (107, 202, 312) as well as a goniometer (102, 206, 340).* This marking device (100, 200, 300) provides an easy to handle device wherein a scribed line, that is performed with a separate tool can be dispensed with entirely. Due to this, additional aids for drawing the scribed line are advantageously no longer necessary. Moreover, a variable applicable and compact as well as time saving device is given, which permits to saw a straight and accurate cut (see application, page 1, line 31 to page 2, line 6).

The Tessel reference fails to disclose a *fastening element* and the laser device (125) of the marking device (100) of the Tessel reference has a *different function* than the device of the present application. The laser device (125) *does not emit in an operation mode a marking beam or is not* used to reproduce a clear line on a *work piece to provide a scribed line* to saw a straight cut. Rather, it

is used to position or align the marking device (100) in respect to a reference mark (145). In addition, someone skilled in the art would not have gained any encouragement from the Tessel reference at the time the invention was made. One could use the laser device (125) to reproduce a scribble line as this function is not necessary in respect to the Tessel reference because the chalk line (200) represents the device per se which marks the scribble line. Therefore, providing a second device to perform the same function would be against the guidelines of mechanical engineering and would result in a waste of costs, pieces and construction work. Moreover, a laser device (125) like it is arranged in the Tessel device is only able to produce a mark embodied as a point or which is pictured as a point and not as a line, like it is claimed for the inventive device of the patent application in claim 1.

Therefore, amended claim 1 is neither anticipated by nor made obvious over the Tessel reference.

Hymer discloses a protractor with three laser pointers (14, 16, 34) and a fastening means embodied as a screw (28) to fasten the protractor to a wooden post (32) (see Hymer, Fig. 2 and column 1, line 33 to column 2, line 20). The Hymer reference does *not disclose a marking device* and like the Tessel reference, the laser pointers (14, 16, 34) have a *different function* with respect to the device of the present application. They are used to aim references and therefore, to position the protractor with respect to these references to determine an angle between these references by the protractor (see Hymer, column 1, lines 8 to 58). They *do not emit in an operation mode a marking beam and are*

not used to reproduce a clear line on a work piece to provide a scribed line to saw a straight cut.

In addition, as disclosed in column 1, line 67 and column 2, line 15 of the Hymer reference, the laser pointers (14, 16, 34) emit coherent light beams (22, 24, 36) and thus are not able to reproduce a scribble line, instead the beams (22, 24, 36) are only pictured on the surface of the reference as points.

Therefore, claim 1 is not obvious over the Hymer reference.

Ting discloses a water level (10) with a laser angle adjustment device comprising a laser module (9) and a graduate scale (5) to determine an angle between objects (see Ting, Fig. 6 and column 2, line 26 to column 3, line 1).

As with Tassel and Hymer, the laser module (9) of Ting emits a laser beam to a remote object or a reference, respectively, to measure the angle with the graduate scale (5) of the object in respect to the water level (10) (see Ting, column 2, line 65 to column 3, line 1). The laser beam which is emitted by the laser module (9) is only pictured on the reference as a point and therefore, the laser module (9) *is not able to emit in an operation mode a marking beam or to be used to reproduce a clear line on a work piece to provide a scribed line to saw a straight cut.* Therefore, claim 1 also is not obvious over the Ting reference.

Also no combination of features from the Tessel reference, the Hymer reference and the Ting reference would have led someone skilled in the art at the time the invention was made to the present invention. Even though the protractor of the Hymer reference discloses a fastening means (28), none of these

references discloses that the laser device (125) or the laser pointers (14, 16, 34) or the laser module (9), respectively, *emits in an operation mode a marking beam or to use these laser devices to reproduce a clear line on a work piece to provide a scribed line to saw a straight cut.*

Thus, claim 1 is not obvious over any combination of the Tessel, Hymer and Ting references.

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Striker', is written over the typed name.

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